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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Tetsuya KANEMARU et al.
Title: SILICONE-TREATED POWDER, PROCESS
OF PRODUCTION THEREOF AND
COMPOSITION CONTAINING THE SAME
Appl. No.: 10/679,298
Filing Date: 10/7/2003
Patent No.: 7,449,193
Grant Date: 11/11/2008
Examiner: Bethany P. BARHAM
Art Unit: 1615
Confirmation Number: 3585

**SUPPLEMENTAL REQUEST FOR RECONSIDERATION OF DECISION ON
REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Supplemental to the Request for Reconsideration of the PTO's Determination of PTA upon the grant of the above-identified patent, filed by the Applicants on January 5, 2009, Applicants note that the Federal Circuit has issued a decision in *Wyeth v. Kappos*, ***affirming*** the district court decision.

In particular, in *Wyeth v. Kappos*, No. 2009-1120 (Jan. 7, 2010), the Federal Circuit determined that "[b]efore the three-year mark, no 'overlap' can transpire between the A delay and the B delay," and that "[i]f an A delay occurs on one day and a B delay occurs on a different day, those two days do ***not*** 'overlap' under section 154 (b)(2)" (emphasis added).

Applicants have recalculated PTA for the captioned patent under the court's interpretation of the PTA statute, and have determined that the patent is entitled to 158 days PTA, as shown on the attached sheet, which shows the relevant delays under 37 CFR §§1.702(a) and (b), and under 37 CFR §§1.703(a) and (b).

The attached sheet details the circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704.

(a) Total of non-overlapping PTO delay under §154(b)(1)(A) & (B): 459 days

(b) Total Applicant delay: 301 days

Final PTA Determination: 158 days

Applicants therefore respectfully request that the patent be accorded 158 days PTA.

The patent is not subject to a terminal disclaimer.

No additional fees are believed to be required. However, if any additional fees are required, the Commissioner is authorized to make appropriate charges to Deposit Account No. 19-0741 to provide exact payment.

Respectfully submitted,

Date JAN 15 2010

By 

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Docket Number: 053466-0372
 Application Number: 10/679298
 Patent Number: 7449193

	Event Description	Event Date	Days from Filing	PTO Days	Applicant Days
Edit Delete	Application Filing Date	10/07/2003	0		
	14 month From Application date	12/07/2004	427		
Edit Delete	Restriction Requirement	03/11/2005	521	94	
Edit Delete	Restriction Requirement Response Received at PTO	04/08/2005	549		
Edit Delete	Non-Final Office Action	04/27/2005	568		
	Non-Final Office Action + 3 months	07/27/2005	659		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	10/27/2005	751		92
Edit Delete	Final Office Action	02/02/2006	849		
	Final Office Action + 3 months	05/02/2006	938		
Edit Delete	Notice of Appeal Received at PTO	07/03/2006	1,000		62
Edit Delete	Final Office Action Response Received at PTO	07/03/2006	1,000		
Edit Delete	Non-Final Office Action	09/11/2006	1,070		
	3 Year Period Starts	10/07/2006	1,096		
	Non-Final Office Action + 3 months	12/11/2006	1,161		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	03/09/2007	1,249		88
Edit Delete	Final Office Action	05/29/2007	1,330		
	Final Office Action + 3 months	08/29/2007	1,422		
Edit Delete	Request For Continued Examination (including amendment)	09/28/2007	1,452		30
	3 Year Period Stopped	09/28/2007	1,452	356	
Edit Delete	Non-Final Office Action	10/31/2007	1,485		
	Non-Final Office Action + 3 months	01/31/2008	1,577		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	02/29/2008	1,606		29
	Non-Final Office Action Rsp. Rcv'd at PTO + 4 mo	06/29/2008	1,727		
Edit Delete	Notice of Allowance	07/08/2008	1,736	9	
Edit Delete	Issue Fee Paid	10/07/2008	1,827		
Edit Delete	Patent Grant Date	11/11/2008	1,862		

Totals: 459 301
PTA: 158

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IP: 10.14.41.156

Foley & Lardner LLP